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File

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/496,769	02/03/2000	Tomotaka Yamazaki	SONYJP3.0-098	6673
530	7590	06/29/2006	EXAMINER	
LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090			BROWN, RUEBEN M	
			ART UNIT	PAPER NUMBER
			2623	

DATE MAILED: 06/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/496,769

Applicant(s)

YAMAZAKI ET AL.

Examiner

Reuben M. Brown

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 6-11, 16-21, 26-31 and 36-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 6-11, 16-21, 26-31 & 36-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Newly submitted claims 45-46 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: ‘the provider device assigning a MAC address to the receiving device’... ‘validating the unique key ID with the first client device; and if the unique key is validated’ transferring the software application to the receiver device; retrieving the MAC address from the unique key ID; and transferring the MAC address to the receiver device for use as a new address of the receiver device’ is directed to divergent subject matter.

Independent claims 1, 11, 21 & 31, merely recite ‘unique terminal identification information being selected in a manner unrelated to the authentication data’, which is more broad than ‘assigning the MAC address’, recited in the newly added claims 45 & 46. Also, the additionally recited, ‘validating, transferring, retrieving and transferring steps’, are directed to a specific software installation algorithm, which is beyond the scope of the claims as previously presented.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution

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on the merits. Accordingly, claims 45-46 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 6-9, 16-19, 26-29 & 36-39 are rejected under 35 U.S.C. 112, 2nd paragraph, for depending upon a canceled claim.

Response to Arguments

4. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claims 1, 6-11, 16-21, 26-31 & 36-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perlman, (U.S. Pat # 5,862,220), in view of Slivka, (U.S. Pat # 6,049,671).

Considering amended claim 1, the instant claim recites a method of transmitting data from a transmission apparatus to one of a plurality of receiving terminals, comprising

‘communicating between the one receiving terminal and the transmission apparatus via an Internet system, such that that the receiving system is operable to receive a digital broadcast signal’, which is met by Perlman, Fig. 4; col. 3, lines 10-60.

‘receiving authentication data associated with the one receiving terminal, authenticating the authentication data’, reads on the disclosure in Perlman, which uses a WebTV telephone number with an ANI, in order to determine if the client is listed on the server, for authentication purposes; see col. 4, lines 50-67 thru col. 5, lines 1-30.

‘transmitting unique terminal information identifying the one receiving terminal as a destination and an update program to change the processing of the one receiving terminal’, Perlman teaches that the client network address and encryption information is transmitted to the client, col. 9, lines 20-25; col. 10, lines 35-40; col. 14, lines 5-20. The claimed ‘unique terminal identification information’, reads on the client network address stored on the private server 820 and provided back to the client 610, col. 8, lines 35-44.

Regarding the claimed 'update program to change the processing of the one receiving terminal', Perlman generally discusses that the client device 610 makes requests of the private server 820, but does not explicitly teach requesting an update. Nevertheless Slivka, which is in the same field of endeavor teaches a subscriber requesting software updates from a server, and that the server transmits the requested software update to the client, using a well known encryption algorithm, see col. 7, lines 35-67; col. 9, lines 20-40 & col. 17, lines 10-25. It would have been obvious for one of ordinary skill in the art to modify Perlman to provide software updates to the client, at least for the desirable advantage of ensuring optimum performance of the client system, as taught by Slivka, Abstract; 1, lines 20-65 & col. 2, lines 15-67.

'unique terminal identification information being selected in a manner unrelated to the authentication data, and the transmitting step including converting the unique terminal information into converted unique terminal information comprising a key ID and transmitting the converted unique terminal information to the one receiving terminal' also reads on the disclosure in Perlman that in at least one embodiment the client device 610 is authenticated using its POTS number, col. 8, lines 30-67. As for the 'key ID', Perlman furthermore teaches that the encryption key is specific to the particular client, col. 8, lines 39-47.

As for the amended claimed feature of 'returning the converted unique terminal information comprising a key ID to the unique terminal information and storing the unique terminal information in a storage location after the returning step', the claimed subject matter

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reads on the operation of Perlman of receiving and storing the encryption information in memory 844 of the client device, Fig. 8; col. 6, lines 35-55.

Regarding the additional claimed feature of 'transmitting from the one receiving terminal to the transmission apparatus a transfer request based on the update program and the unique terminal information, and supplying the data responsive to the request', Perlman teaches that once the encryption information is received, it is used for communication between the client device 610 and the server, col. 8, lines 40-48; col. 11, lines 60-63.

Considering claims 6, 16, 26 & 36, Slivka uses a satellite transmission system; see col. 5, lines 40-46 & col. 10, lines 48-52.

Considering claims 7, 17, 27 & 37, both Perlman & Slivka are directed to Internet communication.

Considering claims 8, 18, 28 & 38, the claimed terrestrial circuit reads on the cable TV system of Perlman.

Considering claims 9, 19, 29 & 39, the claimed subject matter is met by any software upgrade that includes visual interface for the user, see Slivka, col. 7, lines 39-67.

Considering claims 10, 20, 30 & 40, the claimed subject matter reads on the client network address, used in Perlman, col. 7, lines 35-50; col. 8, lines 41-47; col. 9, lines 35-52 & col. 10, lines 41-67; col. 12, lines 1-22.

Considering claims 11, 21 & 31, the claimed system, receiving system and method of receiving data comprises elements that correspond with subject matter mentioned above in the rejection of claim 1, and is likewise treated.

Considering claims 41-44, the claimed unique terminal identification comprising a MAC address of the receiving terminal reads on the client network address, as disclosed by Perlman.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A) Chiu Teaches encrypting communications, suing the MAC address of a receiver terminal, col. 13, lines 55-65.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any response to this action should be mailed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

or faxed to:

(571) 273-8300, (for formal communications intended for entry)

Or:

(571) 273-7290 (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reuben M. Brown whose telephone number is (571) 272-7290. The examiner can normally be reached on M-F (9:00-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communications and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Reuben M. Brown



**HAITRAN
PRIMARY EXAMINER**